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Attorneys for Plaintiffs,
Anthony Reo; and, Bryan Reo

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO – EASTERN DIVISION**

**ANTHONY REO; AND, BRYAN
REO, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiffs,

v.

**CARIBBEAN CRUISE LINE,
INC.,**

Defendant.

Case No.:

CLASS ACTION

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF PURSUANT
TO THE TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. § 227
ET. SEQ.**

JURY TRIAL DEMANDED

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INTRODUCTION

1. ANTHONY REO; and, BRYAN REO (“Plaintiffs”) bring this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of CARIBBEAN CRUISE LINE, INC. (“Defendant”) in negligently contacting Plaintiffs on Plaintiffs’ landline, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227(b)(1)(B) (“TCPA”), thereby invading Plaintiffs’ privacy. Plaintiffs allege as follows upon personal knowledge as to themselves and their own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by their attorneys.
2. The TCPA was designed to prevent calls and messages like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).
3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors and telemarketers may call them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that

[b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

1 Id. at § 12; see also *Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL
2 3292838, at* 4 (N.D.Ill. Aug. 10, 2012) (citing Congressional findings on TCPA's
3 purpose).

4 4. Congress also specifically found that “the evidence presented to the
5 Congress indicates that automated or prerecorded calls are a nuisance and an
6 invasion of privacy, regardless of the type of call....” Id. at §§ 12-13. See
7 also, *Mims*, 132 S. Ct. at 744.

8 5. As Judge Easterbrook of the Seventh Circuit recently explained in a TCPA
9 case regarding calls to a non-debtor similar to this one:

10 The Telephone Consumer Protection Act ... is well known for
11 its provisions limiting junk-fax transmissions. A less-litigated
12 part of the Act curtails the use of automated dialers and
13 prerecorded messages to cell phones, whose subscribers often
14 are billed by the minute as soon as the call is answered—and
15 routing a call to voicemail counts as answering the call. An
16 automated call to a landline phone can be an annoyance; an
17 automated call to a cell phone adds expense to annoyance.

18 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

19 JURISDICTION AND VENUE

20 6. This Court has federal question jurisdiction because this case arises out of
21 violation of federal law. 47 U.S.C. §227(b); *Mims v. Arrow Fin. Servs., LLC*,
22 132 S. Ct. 740 (2012).

23 7. This action arises out of Defendant's violations of the Telephone Consumer
24 Protection Act, 47 U.S.C. § 227, et seq. (“TCPA”).

25 8. Because Defendant conducts business within the State of Ohio, personal
26 jurisdiction is established.

27 9. Venue is proper in the United States District Court, Northern District of
28 Ohio pursuant to 28 U.S.C. § 1391 for the following reasons: (i) Plaintiff
resides in the City of Mentor, Lake County, State of Ohio, which is within
this judicial district; (ii) the conduct complained of herein occurred within

1 this judicial district; and, (iii) Defendant conducted business within this
2 judicial district at all times relevant.

3 **PARTIES**

4 10. Plaintiffs are natural persons residing in Ohio and are “persons” as defined
5 by 47 U.S.C. § 277(a)(2)(A).

6 11. Defendant is a national cruise sales company and is a “person” as defined by
7 47 U.S.C. § 227(a)(2)(A). Defendant’s State of Information and principal
8 place of business are in the State of Florida.

9 **FACTUAL ALLEGATIONS**

10 1. Plaintiff alleges that at all times relevant herein Defendant conducted
11 business in the State of Ohio, County of Lake, and within this judicial
12 district.

13 2. At no time did Plaintiff ever enter into a business relationship with
14 Defendant.

15 3. Nor did Plaintiff ever contact Defendant at any time or provide Defendant
16 with Plaintiff’s residential telephone number.

17 4. Beginning in May 2013, Defendant contacted Plaintiff on Plaintiff’s
18 residential telephone number, in an effort to solicit Plaintiff’s business.

19 5. Defendant placed more than one unsolicited advertisements to Plaintiff’s
20 residential telephone in a period of months.

21 6. Defendant used an “automatic telephone dialing system”, as defined by 47
22 U.S.C. § 227(a)(1) to place its unsolicited calls to Plaintiff while using an
23 “artificial or prerecorded voice” as prohibited by 47 U.S.C. § 227(b)(1)(A).

24 7. This ATDS has the capacity to store or produce telephone numbers to be
25 called, using a random or sequential number generator.

26 8. These telephone communications constituted telephone solicitations as
27 defined by 47 U.S.C. § 227(a)(4).
28

1 9. Defendant's calls constituted calls that were not for emergency purposes as
2 defined by 47 U.S.C. § 227(b)(1)(A)(i).

3 10. Defendant's calls were placed to telephone number assigned to a cellular
4 telephone service for which Plaintiff incurs a charge for incoming calls
5 pursuant to 47 U.S.C. § 227(b)(1).

6 11. Plaintiff has never been in an "established business relationship" with
7 Defendant as defined by 47 U.S.C. 227(a)(2), nor has Plaintiff ever sought
8 Defendant's services at any point in the past.

9 12. These telephone communications by Defendant, or its agent, violated 47
10 U.S.C. § 227(b)(1).

11 CLASS ACTION ALLEGATIONS

12 12. Plaintiffs bring this action on behalf of themselves and on behalf of all
13 others similarly situated ("the Class").

14 13. Plaintiffs represent, and are members of the Class, consisting of all persons
15 within the United States who received any telephone call from Defendant or
16 their agent/s and/or employee/s to said person's residential telephone made
17 through the use of any automatic telephone dialing system or with an
18 artificial or prerecorded voice, which call was not made for emergency
19 purposes within the four years prior to the filing of this Complaint.

20 14. Defendant and its employees or agents are excluded from the Class.
21 Plaintiffs do not know the number of members in the Class, but believe the
22 Class members number in the hundreds of thousands, if not more. Thus, this
23 matter should be certified as a Class action to assist in the expeditious
24 litigation of this matter.

25 15. Plaintiffs and members of the Class were harmed by the acts of Defendant in
26 at least the following ways: Defendants, either directly or through its agents,
27 illegally contacted Plaintiffs and the Class members via landline telephones
28 by using an ATDS, thereby causing Plaintiffs and the Class members to

1 incur certain telephone charges for which Plaintiff and the Class members
2 must pay, and invading the privacy of said Plaintiffs and the Class members.
3 Plaintiffs and the Class members were damaged thereby.

4 16. This suit seeks only damages and injunctive relief for recovery of economic
5 injury on behalf of the Class, and it expressly is not intended to request any
6 recovery for personal injury and claims related thereto. Plaintiffs reserve the
7 right to expand the Class definition to seek recovery on behalf of additional
8 persons as warranted as facts are learned in further investigation and
9 discovery.

10 17. The joinder of the Class members is impractical and the disposition of their
11 claims in the Class action will provide substantial benefits both to the parties
12 and to the court. The Class can be identified through Defendants' records or
13 Defendants' agents' records.

14 18. There is a well-defined community of interest in the questions of law and
15 fact involved affecting the parties to be represented. The questions of law
16 and fact to the Class predominate over questions which may affect
17 individual Class members, including the following:

- 18 a) Whether, within the four years prior to the filing of this Complaint,
19 Defendant or its agents initiated any telephonic communications to the
20 Class (other than a message made for emergency purposes or made
21 with the prior express consent of the called party) to a Class member
22 using any automatic dialing and/or SMS texting system to any
23 landline telephone number;
- 24 b) Whether Defendant can meet its burden of showing it obtained prior
25 express consent (i.e., consent that is clearly and unmistakably stated);
- 26 c) Whether Defendant's conduct was knowing and/or willful;
- 27 d) Whether Plaintiffs and the Class members were damaged thereby, and
28 the extent of damages for such violation; and

1 e) Whether Defendants and its agents should be enjoined from engaging
2 in such conduct in the future.

3 19. As a person that received at least one telephonic communication from
4 Defendant's ATDS without Plaintiffs' prior express consent, Plaintiffs are
5 asserting claims that are typical of the Class. Plaintiffs will fairly and
6 adequately represent and protect the interests of the Class in that Plaintiffs
7 have no interests antagonistic to any member of the Class.

8 20. Plaintiffs and the members of the Class have all suffered irreparable harm as
9 a result of the Defendants' unlawful and wrongful conduct. Absent a class
10 action, the Class will continue to face the potential for irreparable harm. In
11 addition, these violations of law will be allowed to proceed without remedy
12 and Defendants will likely continue such illegal conduct. Because of the
13 size of the individual Class member's claims, few, if any, Class members
14 could afford to seek legal redress for the wrongs complained of herein.

15 21. Plaintiffs have retained counsel experienced in handling class action claims
16 and claims involving violations of the Telephone Consumer Protection Act.

17 22. A class action is a superior method for the fair and efficient adjudication of
18 this controversy. Class-wide damages are essential to induce Defendants to
19 comply with federal and Ohio law. The interest of Class members in
20 individually controlling the prosecution of separate claims against
21 Defendants is small because the maximum statutory damages in an
22 individual action for violation of privacy are minimal. Management of these
23 claims is likely to present significantly fewer difficulties than those
24 presented in many class claims.

25 23. Defendant has acted on grounds generally applicable to the Class, thereby
26 making appropriate final injunctive relief and corresponding declaratory
27 relief with respect to the Class as a whole.

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FIRST CAUSE OF ACTION

NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

24.Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

25.The foregoing acts and omissions of Defendant constitutes numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

26.As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq, Plaintiffs and The Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

27.Plaintiffs and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

KNOWING AND/OR WILLFUL VIOLATIONS OF THE

TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. § 227 ET SEQ.

28.Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

29.The foregoing acts and omissions of Defendant constitutes numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

30.As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq, Plaintiffs and The Class are entitled to an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

31. Plaintiffs and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request the Court grant Plaintiffs and The Class members the following relief against Defendants:

- An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23, establishing an appropriate Class and any Subclasses the Court deems appropriate, finding that Plaintiffs are a proper Class representative, and appointing the lawyers and law firms representing Plaintiffs as counsel for the Class;

FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF THE TCPA, 47 U.S.C. § 227 ET SEQ.

- As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1), Plaintiffs seeks for themselves and each Class member \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

SECOND CAUSE OF ACTION FOR KNOWING/WILLFUL VIOLATION OF THE TCPA, 47 U.S.C. § 227 ET SEQ.

- As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227(b)(1), Plaintiffs seeks for themselves and each Class member \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).
- Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.
- Any other relief the Court may deem just and proper.

TRIAL BY JURY

32. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: June 24, 2014

Respectfully submitted,

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By: /s Matthew M. Loker
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